

The opinion in support of the decision being entered today is not
binding precedent of the Board

Paper 135
Filed: 27 July 2007

Mail Stop Interference
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Human Genome Sciences, Inc.,
Junior Party
(Application 10/005,842-IFW
Inventors: Jian Ni, Reiner L. Gentz,
Guo-Liang Yu and Craig A. Rosen),
v.
Immunex Corp.,
Senior Party
(Patent 6,642,358
Inventors: Charles Rauch and Henning Walczak).



Patent Interference No. 105,381 (RES)

Before McKELVEY, *Senior Administrative Patent Judge*, and SCHAFER
and MOORE, *Administrative Patent Judges*.

Judgment - Order to Show Cause

- 1 Junior Party Human Genome Sciences (HGS) was put under an order
- 2 to show cause why judgment should not be entered against it. Paper 114.

1 HGS responded. Paper 115. For the reasons given in the Decision - Order
2 to Show Cause entered concurrently herewith (Paper 134), it is

3 **ORDERED** that judgment as to Count 1 (the sole count in the
4 interference; Paper 1, page 6) is awarded against Junior Party HUMAN
5 GENOME SCIENCES;

6 **FURTHER ORDERED** that HUMAN GENOME SCIENCES claims
7 35, 36, 38-45, 47-54, 56-61, 75, 83, 92, 99, 100, 102-109, 111-116, 127-133,
8 168-178, 180-203 are unpatentable over priori art 35 U.S.C. § 102(e));

9 **FURTHER ORDERED** that Junior Party HUMAN GENOME
10 SCIENCES is not entitled to a patent containing claims 35, 36, 38-45, 47-54,
11 56-61, 75, 83, 92, 99, 100, 102-109, 111-116, 127-133, 168-178, 180-203 of
12 Application 10/005,842 (corresponding to Count 1);

13 **FURTHER ORDERED** that if there is a settlement agreement,
14 attention is directed to 35 U.S.C. § 135(c);

15 **FURTHER ORDERED** that a copy of this JUDGMENT shall be
16 placed in the files of (1) Application 10/005,842 and (2) Patent 6,642,358;
17 and

1 FURTHER ORDERED that in the event of judicial review, the party
2 seeking judicial review must comply with mandatory notice provisions of 37
3 C.F.R. § 41.8(b) (2006).

<u>/Fred E. McKelvey/</u>)
FRED E. MCKELVEY)
Senior Administrative Patent Judge)
)
)
<u>/Richard E. Schafer/</u>) BOARD OF PATENT
RICHARD E. SCHAFER) APPEALS AND
Administrative Patent Judge) INTERFERENCES
)
)
<u>/James T. Moore/</u>)
JAMES T. MOORE)
Administrative Patent Judge)

cc (FAX):

Counsel for HUMAN GENOME SCIENCES, INC:
Jorge A. Goldstein, Esq.
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
Tel: 202-371-2600
Fax: 202-371-2540
Email: jgold@skgf.com

Counsel for IMMUNEX CORPORATION:
Michael J. Wise, Esq.
PERKINS COIE LLP
1620 26th Street,
6th Floor, South Tower
Santa Monica, CA 90404-4013
Tel: 310-788-3210
Fax: 310-788-3399
Email: mwise@perkinscoie.com

1

Attorney for GENENTECH (Interference 105,361):
Oliver R. Ashe, Jr. Esq.
ASHE, P.C.
11440 Isaac Newton Square North
Suite 210
Reston, VA 20190
Tel: 703-467-9001
Fax: 703-467-9002
Email: oashe@ashepc.com